



Appendix B

Enabling Legislation and Regulations

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Enabling Legislation

This is legislation enacted by Congress and the President of the United States that gives PPQ the authority to carry out the mission of protecting American agriculture from plant pests. The legislative acts passed by Congress are the legal basis for PPQ's existence. Legislative acts are broad statements which authorize the Secretary of Agriculture to promulgate regulations to protect American agriculture.

As a PPQ officer, it is important to know these legislative acts. Your knowledge of the acts will allow you to make knowledgeable statements to the public about the legal authority for the actions you take and to know the extent and limitations of your authority.

The regulatory actions presented in the plant import manuals are authorized by several legislative acts. They are:

- ◆ Plant Quarantine Act
- ◆ Federal Plant Pest Act
- ◆ Federal Seed Act
- ◆ Federal Noxious Weed Act
- ◆ Endangered Species Act
- ◆ Convention for International Trade in the Endangered Species of Wild Fauna and Flora

The plant import manuals consolidate these pieces of legislation in regulatory decision making.

When enforcing regulations covering the import of plants, plant parts, and plant products, apply the legislation in this order:

1. Legislation that prevents the entry of plant pests and pathogens. These acts are:

A. Plant Quarantine Act

B. Federal Plant Pest Act

The Plant Quarantine Act allows the Secretary of Agriculture to promulgate quarantines that restrict and prohibit the entry of host plants, plant parts, and products in order to protect U.S. crops from specific plant pests and pathogens. An example of a quarantine promulgated under the Plant Quarantine Act is the coffee quarantine (7CFR 319.73). This quarantine restricts and prohibits the entry of coffee primarily to exclude the coffeeberry borer and an injurious rust disease caused by *Hemileia vastatrix*.

The Federal Plant Pest Act (FPPA) regulates the entry of any organism that can directly or indirectly injure or cause disease in plants. This Act also regulates any article or means of conveyance that could carry pests. Other provisions of this Act give authority for emergency action and for issuing regulations necessary to prevent the pests' spread. The FPPA gives you the authority to board ships and planes and to restrict the entry or require the treatment of any cargo that may be infested with plant pests.

2. The Federal Seed Act restricts the entry of agricultural and vegetable seed to ensure seed purity—mainly that the seed is what the label says it is and that the seed is free from noxious weed seed as defined by the Federal Seed Act.
3. The Federal Noxious Weed Act restricts the entry of weeds which are determined to be harmful to agricultural crops, livestock, irrigation, navigation, fish and wildlife resources, or the public health. The Act restricts the entry of noxious weeds. 7CFR 360 lists those weeds which are considered noxious.
4. Legislation and a treaty that protect endangered species of terrestrial plants. They are:
 - A. Endangered Species Act (ESA)
 - B. Convention on the International Trade in Endangered Species of Wild Fauna and Flora (CITES).

ESA provides for the protection of listed species at two levels—endangered and threatened. Endangered status is assigned to species in immediate danger of extinction. Threatened status is assigned to species that may become endangered if their status is not monitored. ESA prohibits unauthorized import or export of threatened or endangered species.

CITES is a multinational treaty that regulates the import, export, and reexport of listed species of wild fauna and flora. A species may be listed in any one of the three appendixes, depending on the degree of

protection deemed necessary. Appendix I—provides the most stringent level of protection for species in immediate danger of extinction. Commercial trade is not allowed. Appendix II—provides less rigorous protection for species that may become endangered if trade is not carefully regulated. Appendix III—provides protection to a particular country's population of a species. Species are listed in Appendix III by a country that regulates the use of a given species within its boundaries, even though that species may be plentiful there or elsewhere.

Regulations

The following is a list of the regulations, with a brief explanation, that are the authority for the regulatory actions listed in the Plant Import: Nonpropagative Manuals. The regulations are listed in numerical order, first by Title, then by Part, and finally by Subpart. The regulation itself can be found under the Title listed, and then under the specific Part and Subpart number in the Code of Federal Regulations (CFR's). Example—the Bamboo regulation can be found in Title 7, Part 319, Subpart 34 (7CFR 319.34). If the Subpart lists specific pests, these are entered at the end of the text in bold-faced type. The pests are listed exactly as published in the CFR and may not reflect current nomenclature.

Regulations—Title

7301.87—Sugarcane Diseases—Restricts the movement of sugarcane from Hawaii, Puerto Rico, and the U.S. Virgin Islands to the United States or any other territory of the United States. **Diseases of concern—leaf scald disease and gummosis disease.**

318.13—Hawaiian Fruits and Vegetables—Restricts and prohibits the movement of fresh fruits, vegetables, cactus, cut flowers, mango seed, and rice straw from Hawaii to other parts of the United States. Gives instructions on the clearance of carriers, cargo, passenger baggage, and mail. **Pests of concern—green coffee scale (*Coccus viridis*) Mediterranean fruit fly (*Ceratitis capitata*), melon fly (*Dacus cucurbitae*), oriental fruit fly (*Dacus dorsalis*), bean pod borer (*Maruca testulalis*), bean butterfly (*Lampides boeticus*), Asiatic rice borer (*Chilo suppressalis*), mango weevil (*Sternochetus mangiferae*), Chinese rose beetle (*Adoretus sinicus*), cactus borer (*Cactoblastis cactorum*).**

318.30—Sweet Potatoes—Restricts the movement of sweet potatoes from Hawaii, Puerto Rico, and the U.S. Virgin Islands to the United States or any other territory of the United States. **Pests of concern—sweet potato scarabee (*Euscepes postfasciatus*) and sweet potato stem borer (*Omphisa anastomosalis*).**

318.47—Territorial Cotton, Cottonseed, and Cottonseed Products—Restricts the movement of cotton and cotton products (including covers and wrappers) from Hawaii, Puerto Rico, and the U. S. Virgin Islands to the United States or any other territory of the United States. **Pests of concern—pink bollworm of cotton (*Pectinophora gossypiella*) and cotton blister mite (*Eriophyes gossypii*).**

318.58—Fruits and Vegetables From Puerto Rico and the U.S. Virgin Islands—Restricts and prohibits the movement of fresh fruits and vegetables from Puerto Rico and the U.S. Virgin Islands. Restricts the movement of cactus from the U.S. Virgin Islands. Gives instructions on the clearance of carriers, cargo, passenger baggage, and mail. **Pests of concern—*Anastrepha suspensa*, *Anastrepha mombinpraeoptans*, bean pod borer (*Maruca testulalis*), and cactus borer (*Cactoblastis cactorum*).**

318.60—Sand, Soil, or Earth From Territories or Districts—Prohibits the movement of soil, sand, or earth that is associated with plant roots from Hawaii, Puerto Rico and the U.S. Virgin Islands to the United States. **Pests of concern—white grubs (*Phyllophaga* spp. and *Adoretus* spp.) and several species of termites or white ants.**

318.82—Guam—Prohibits and restricts the movement of fresh fruits and vegetables, cotton and cotton covers, sugarcane, cereals, cut flowers, and packing materials from Guam to the United States, Puerto Rico, and the U.S. Virgin Islands. **Pests and of concern—Egyptian fluted scale (*Icerya aegyptiaca*), orange spiny whitefly (*Aleurocanthus spiniferus*), citrus leafminer (*Phyllocnistis citrella*), chafer (*Anomala sulcatula*), green coffee scale (*Coccus viridis*), red coconut scale (*Furcaspis oceanica*), coffee bean borer (*Stephanoderes hampei*), pink spotted bollworm (*Pectinophora scutigera*), oriental fruit fly (*Dacus dorsalis*), melon fly (*Dacus cucurbitae*), bean pod borer (*Maruca testulalis*), bean butterfly (*Lampides boeticus*), citrus pock caterpillar (*Prays endocarpa*), Asian cutworm (*Prodenia litura*), West Indian sweet potato weevil (*Euscepes postfasciatus*), northern rough bollworm (*Earias fabia*), New Guinea sugarcane weevil (*Rhabdoscelus obscurus*), whitefly on grasses (*Neomaskellia bergii*), European corn borer (*Pyrausta nubilalis*), scentless plant bug (*Leptocorisia acuta*), Chinese rose beetle (*Adoretus sinicus*), Holotrichia**

mindanaona. Disease of concern—citrus canker (*Xanthomonas citri*), sweet potato scab (*Elsinoe batatas*), rust on yam (*Uredo dioscoreae-alatae*), sweet potato leafspot (*Cercospora batatae*), *Coniothyrium* spp., *Phyllostictina colocasiophila*, sugarcane gummosis (*Xanthomonas vasculorum*), corn brown spot (*Physoderma zeae-maydis*).

319.8—Foreign Cotton and Covers—Prohibits cottonseed, seed cotton, and fresh cut articles of cotton. Restricts the entry of all unmanufactured parts of the cotton plant (lint, linters; cottonseed cake, hulls and meal; cotton gin and thread waste); secondhand burlap, covers, and other fabrics that have held cotton, grain, field seed, underground crops, and meats. **Pests of concern—pink bollworm (*Pectinophora gossypiella*), golden nematode (*Heterodera rostochiensis*). Diseases of concern—flag smut (*Urocystis triticia*).**

319.15—Sugarcane—Prohibits sugarcane from all countries and restricts products derived from sugarcane.

319.19—Citrus Canker and Other Citrus Diseases—Prohibits all plant parts of citrus and related genera except the fruit and seed. **Disease of concern—citrus canker (*Xanthomonas citri*).**

319.24—Corn Diseases—Prohibits and restricts all parts of corn and corn relatives (including the seed) from specific countries. **Disease of concern—*Peronospora maydis*, downy mildew (*Sclerospora sacchari*), *Physoderma* diseases of maize, *Physoderma zeae-maydis*, corn brown spot (*Physoderma maydis*).**

319.28—Citrus Fruit—Regulates citrus fruit (which includes the peel) from areas of the world infected with citrus canker disease and sweet orange scab. **Diseases of concern—citrus canker (*Xanthomonas citri*) and sweet orange scab (*Elsinoe australis*).**

319.34—Bamboo—Prohibits all parts of bamboo which are capable of propagation. Allows bamboo timber, articles made from bamboo, and cooked or preserved bamboo shoots. **Disease of concern—bamboo smut (*Ustilago shiraiana*).**

319.37—Nursery Stock, Plants, Roots, Bulbs, Seed and Other Plant Products—Regulates plants and plant parts capable of propagation, including branches with or without flowers imported as cut flowers, greenery, or decorative materials such as wreaths from the following genera or family: *Chaenomeles*, *Cydonia*, *Eucalyptus*, *Malus*, *Poaceae*, *Prunus*, *Pyrus*, *Salix*, and *Vitis*. Lists the approved growing media for propagative materials moving from Hawaii, Puerto Rico, and the U.S. Virgin Islands.

319.41—Indian Corn or Maize, Broomcorn, and Related Plants—Prohibits or restricts the entry of corn, broomcorn, and related plants. **Pest of concern—European corn borer (*Ostrinia nubilalis*).**

319.55—Rice—Prohibits rice seed and fresh, cut rice stems. Restricts rice straw (dried) and rice hulls. **Diseases of concern—downy mildew (*Sclerospora macrospora*), leaf smut (*Entyloma oryzae*, blight (*Oospora oryzaetorum*), glume blotch (*Melanomma glumarum*).**

319.56—Fruits and Vegetables—Restricts or prohibits fresh fruits and vegetables (including herbs) from all countries. Restricts frozen fruits and vegetables. Includes fresh, cut articles imported for decoration when fresh fruit is attached. Example—pineapples (*Ananas* spp.) that are used as decorative articles. **Pests of concern—fruit and melon flies (*Tephritidae*).**

319.59—Wheat Diseases—Prohibits and restricts plants, plant parts and products of wheat and wheat relatives from countries infested with Karnal bunt or flag smut. Includes products of the milling process, articles which have been manufactured from wheat plants or plant parts if their use could serve to disseminate the spores of Karnal bunt or flag smut, and fresh, cut plant parts for decorative purposes. **Pests of concern—Karnal bunt and flag smut.**

319.69—Packing Materials—Prohibits the use of packing material that contains items specifically prohibited or restricted by other quarantines. Example—rice hulls from Japan could not be used to pack fruit.



Coconut frond baskets are **not** approved as fruit and vegetable containers for imports into Guam under the authority of 7CFR 319.56a(f).

319.73—Coffee—Prohibits green (unroasted) and insufficiently roasted coffee beans and empty sacks previously used for unroasted coffee from all areas of the world into Hawaii and Puerto Rico. Allows the entry into Hawaii and Puerto Rico of articles derived from the coffee plant if those articles present no risk of introducing the coffee berry borer or injurious rust diseases. Example—coffee beans strung as beads offer little risk. **Pest of concern—coffee berry borer (*Stephanoderes hampei*). Disease of concern—rust disease caused by *Hemileia vastatrix*.**

319.74—Cut Flowers—Restricts the importation of fresh, cut flowers, but exempts dried, bleached, dyed, or chemically treated decorative plant materials from the definition of cut flowers.

319.75—Khapra Beetle—Requires that articles capable of disseminating khapra beetle be treated as a condition of entry when coming from endemic or high risk countries.

319.76—Exotic Bee Diseases and Parasites—Restricts the entry of pollen for bee feed and any other articles capable of disseminating bee diseases or bee parasites of foreign origin. **Disease of concern—*Aspergillus* spp., *Bacillus* spp., *Entomophthora* spp. *Beauveria* spp., *Cordyceps* spp., *Saccharomyces* spp. Pests of concern—*Coelioxys* spp., *Chrysis* spp., *Varroa jacobsoni*, *Eugarroa sinhai*, *Tropilaelaps clareae*, *Acarapis woodi*.**

330—Federal Plant Pest Regulations—Restricts the entry of miscellaneous cargo, plants, carriers, or any item which is or may act as a carrier of plant pests. Restricts the movement of soil from Hawaii, Puerto Rico, and the U.S. Virgin Islands to the United States. **Pest of concern which means any living stage of any insects, mites, nematodes, slugs, snails, protozoa, or other invertebrate animals, bacteria, fungi, other parasitic plants or reproductive parts thereof, viruses, or any organisms similar to or allied with any of the foregoing, or any infectious substances which can directly or indirectly injure or cause disease or damage in any plants or parts thereof, or any processed, manufactured, or other products of plants; or any living stage of insects, mites, nematodes, slugs, snails, protozoa, or other invertebrate animals, bacteria, fungi, other parasitic plants or reproductive parts thereof, viruses, or any organisms similar to or allied with any of the foregoing, or any infectious substances of the aforementioned which are not genetically engineered as defined in 7CFR 340.1 which can directly or indirectly injure or cause disease or damage in any plants or parts thereof, or any processed, manufactured, or other products of plants.**

351—Importation of Plants or Plant Products by Mail—Provides directions for regulating restricted items that are intercepted in the mail.

352—Safeguard Regulations—Restricts the importation of all items which are either prohibited or restricted by Subparts 319, 320, 321, or 330 and are subject to safeguard regulations when:

- ◆ Brought in for a temporary stay and unloading is not intended (Example—ships' stores)
- ◆ Unloaded for transshipment and direct exportation
- ◆ Unloaded for transportation and exportation (T&E)
- ◆ Unloading and entry at a subsequent port is intended (residue cargo)

◆ Refused entry under Subparts 319, 320, 321, or 330

360—Noxious Weed Regulation—Lists weeds that are noxious and allows the importation of seed of listed weeds only under a written permit. See Appendix 6 for a list of these weeds.

361—Importation of Seed and Screenings under the Federal Seed Act—Restricts the importation of agricultural and vegetable seed for planting, and their screenings. Seed must be properly labeled and free from listed federal noxious weeds. Tolerances apply to seeds of the following: bindweed (*Convolvulus arvensis*), Canada thistle (*Cirsium arvense*), leafy spurge (*Euphorbia esula*), dodder (*Cuscuta* spp.), whitetop (*Cardaria draba*, *Cardaria pubescens*), quackgrass (*Elytrigia repens*), Johnsongrass (*Sorghum halepense*), perennial sowthistle (*Sonchus arvensis*), and Russian knapweed (*Acroptilon repens*).

Animal By-products Regulations, Title 9, Part 95

95.21—Allows the importation of **hay and straw** from countries free of foot-and-mouth disease and rinderpest.

95.22—Restricts the entry of **hay and straw** from countries infected with foot-and-mouth disease and rinderpest.

95.28—Restricts the entry of **hay and straw** from tick infested countries.

Endangered Species Regulations— Title 50

17—Endangered and Threatened Wildlife and Plants—Restricts the importation of plants, plant parts, and products of listed plants.

23—Endangered Species Convention—Restricts the importation of plants, plant parts and products that are threatened with extinction due to trade in the species.